

Amendment to and Listing of the Claims:

This listing of claims will replace all prior versions, and listings, of claims in the application.

Please amend claim 1, as shown below.

Listing of Claims:

1(currently amended). A DNA construct comprising nucleic acid encoding an influenza virus gene, wherein said DNA construct consists of a plasmid backbone selected from the group consisting of ~~pnRSV, V1, V1J, V1JR, and V1Jns and V1Jneo~~ and is capable of inducing the expression of an antigenic influenza virus gene product which induces a specific immune response against an influenza virus upon introduction of said DNA construct into animal tissues *in vivo* and resultant uptake of the DNA construct by cells which express the encoded influenza gene.

2(original). The DNA construct of Claim 1 wherein the influenza virus gene encodes nucleoprotein, hemagglutinin, polymerase, matrix, or non-structural human influenza virus gene products.

3(currently amended). A polynucleotide vaccine comprising a DNA construct which induces, upon introduction of said polynucleotide vaccine into animal tissue *in vivo*, neutralizing antibody against human influenza virus, or influenza virus-specific cytotoxic lymphocytes, or a protective immune response against a infection with a human influenza virus, wherein the animal is a vertebrate, and the polynucleotide vaccine consists of a plasmid backbone selected from the group consisting of ~~pnRSV, V1, V1J, V1JR, and V1Jns and V1Jneo~~ and encodes an influenza virus gene which is expressed upon introduction into said vertebrates' tissues *in vivo*.

Claims 4-6 (canceled).

7(previously presented). A method for protecting against illness associated with host infection by human influenza virus which comprises immunization of said host with a prophylactically effective amount of the DNA of Claim 1.

8(previously presented). A method for protecting against illness associated with host infection by human influenza virus which comprises immunization of said host with a prophylactically effective amount of the DNA of Claim 3.

9(previously presented). A method for protecting against illness associated with host infection by human influenza virus which comprises immunization of said host with a prophylactically effective amount of the DNA of Claim 2.

10(original). The method of Claim 7 which comprises direct administration of the DNA into tissue *in vivo*.

Claim 11-16 (canceled).

17(previously presented). The method of Claim 7 wherein said host being treated by the method is a human.

Claims 18-25 (canceled).